

United States District Court
Southern District of Texas
FILED

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE, DIVISION

NOV 08 1996

Michael N. Milby
Clerk of Court

EDWARD ALCALA, VICTOR ALVARADO, §
GUILLERMO ALVAREZ, JOE ANZALDUA III, §
ANDRES ARREOLA, ROEL ARREOLA, ANTONIO §
ARRIAGA, ROY ARMENDARIZ, HERIBERTO AVILA, §
EMILIO BALLI, RAUL BANDA, MIKE M. BARBARENA, §
ARMANDO BARBOSA, DOLORES BENAVIDES IBARRA, §
BERT M. BLANCHARD, JOSE GILBERTO, §
BLANCO JR., RENE BORREGO, GILBERT BRIONES, §
MERCED BURNDAL, JR., LUIS BURROLA, SALVADOR §
CABRERA, BERNARDO CAMACHO, ENRICH CAMARILLO, §
JUAN CAMPBELL, DANIEL CAMEOS, ROLANDO CAN JR., §
AIMED CANT, JOSEPH J. CANAL, RENE CAPISTRANO, §
IGNACIO CASANOVA, GUADALUPE CASTILLO, §
GUADALUPE CASTILLO JR., JORGE CASTORENA, §
JONNY CAVAZOS, JOSE F. CAVAZOS JR., JOSE L. CEPEDA, §
HECTOR CERVANTES, MARTHA CERVANTES, JUAN A. §
CISNEROS, ALONZO CORONA, JUAN N. CORTEZ, §
GEORGE CRUZ, BENITO DE LA CRUZ, MARIAN CULVER, §
IRMA DE LA GARZA, ALFRED DE LOS SANTOS, ROBERT §
DE LOS SANTOS, DOMINGO DIAZ JR., ROBERT DOMANSKI, §
GREGORIO ESCAMILLA, LUIS ESPARZA, ROBERTO §
ESPARZA JR. AGUSTIN FLORES, ALEJANDRO FLORES, §
CELSO FLORES, ERNESTO FLORES, ERNESTO G. FLORES, §
GILBERT FLORES, MARY ANN FLORES, HECTOR GALACIA, §
HUGO GALACIA, ABEL G. GARCIA, ALEX GARCIA, §
FAUSTA GARCIA, GEORGE L. GARCIA, GREGORIO §
GARCIA, JOSE GARCIA LONGORIA, JOSE R. GARCIA, §
MARIA DE JESUS D. GARCIA, OMAR GARCIA, PEDRO §
GARCIA JR., RAUL GARCIA, ROY S. GARCIA, VIDAL GARCIA, §
GERARDO GARZA, JOSE CANDELARIO GARZA, §
JOSE CARLOS GARZA, MANUEL M. GARZA, PEDRO GARZA, §
SABAS GARZA JR., ROGELIO GARZA, ELIDA GOMEZ, §
GILBERT GOMEZ, SANTOS GOMEZ JR., ARMANDO §
GONZALEZ, DAVID GONZALEZ, ELIZALBETH SOSA §
GONZALEZ, FRANK GONZALEZ, GEORGE GONZALEZ, §
HECTOR GONZALEZ, HOMER GONZALEZ, J.M. GONZALEZ, §
ROBERT GONZALEZ, SYLVIA GONZALEZ, THOMAS §
GONZALEZ JR., ROMAN A. GRACIA, JOE GUAJARDO, §
EFRAIN GUERRERO, ALFREDO GUTIERREZ, JOSE I. §
GUTIERREZ JR., MARTHA GUTIERREZ, MARTIN GUZMAN, §
JAVIER HERNANDEZ, RAUL HERNANDEZ, XAVIER LEE §
HERNANDEZ, MIROSLAVA HARARE, DANIEL HUERTA, §
ROBERT D. JOHNSON, JOHN F. KEENER, PERMAL KEENER, §
JORGE R. KOMALSKI, FERMIN LEAL, HECTOR LEAL, §
FRANK LERMA JR., DAVID LIMON, MIKE A. LINARES, §
ROBERT LOPEZ, VICTOR LOPEZ, RODOLFO ISMAEL §
LOZANO, FERNANDO LUCIO, ALFREDO LUNA, §
LUIS LUNA JR., ARMANDO MALDONADO, CRISTINA §
MALDONADO, ROLANDO MANCILLA, GERMAN MARTIN, §
LUIS G. MARTINEZ, NAT MARTINEZ, THOMAS G. §
MARTINEZ, RAMIRO MEDRANO, ROLANDO MEDRANO, §
ROLANDO MEDRANO JR., JUAN MENDOZA JR., §
LORENZO MOLANO, JORGE MONCADA, SAMUEL §
MONTEMAYOR, JOSE A. MONTES, JAIME MUNIVEZ, §
JUAN MUNOZ, LELINA NIETO, MARTIN NIETO, §
FLOYD NELSON, JAIME NELSON, LELINA NIETO, §

CIVIL ACTION NUMBER

B - 96 - 203 . .

JURY DEMAND

MANUEL NUNEZ JR., ROGER OLSSON, JOE OLVERA, §
DAVID ORTEGA, JR., ISAIAS PADILLA, JAVIER PENA, §
ABEL PEREZ JR., CARLOS R. PEREZ, DAVID PEREZ JR., §
RICARDO PEREZ, JAVIER F. PINEDA, ANTONIO B. RAMIREZ, §
DANIEL RAMIREZ, JOSE RAMIREZ, RAMIRO RAYA, §
ROLANDO RIVAS, REYNALDO REY, JUAN REYNA JR., §
AGUSTIN RIVERA JR., JOSE A. ROCHA, ALONZO §
RODRIGUEZ, AMADEO RODRIGUEZ, FELIZA RODRIGUEZ, §
JUAN JOSE RODRIGUEZ, JUAN LUIS RODRIGUEZ, RAUL E. §
RODRIGUEZ, ROBERT RODRIGUEZ, JOSE ROBERT RUIZ, §
JOSEPH SAENZ, CRISPIN SALAZAR, GILBERT SALAZAR, §
OMAR SALAZAR, FRANK SANCHEZ, LUIS HUMBERTO §
SCHULTZ, ROBERTO SILVA, HARRY STEVENS JR., §
ARMANDO TENORIO, JOHN TOMALENUS, ABEL E. TORRES §
III, ANTONIO R. TORRES, RAUL TORRES JR., GILBERT §
TREVINO JR., EDMUNDO TREVINO, EDWARD TREVINO, §
HILDA TREVINO, JANIE TREVINO, RAUL L. TREVINO, §
LUIS L. VALDIS, CESAR R. VALDEZ, MARTIN N. VALLEJO, §
JIMMY S. VASQUEZ JR., MARIO X. VERA, MARIA G. VIDAL, §
JOE VILLAREAL JR., JOSE ARTURO VILLAREAL, JUAN E. §
VILLAREAL, JAMES WOODARD, WALTER L. WEAVER, §
RICHARD ALLEN WALKER, JOSE LUIS YANES, ELIAS §
YBARRA, JOEL ZAMORA, EDWARD ZEPEDA, GILBERTO §
ZEPEDA, ROY ZEPEDA, MARIA ANGELITA PADILLA §

Vs.

ALEX PEREZ, In his official capacity as Sheriff
of Cameron County, Texas and Cameron
County Texas

PLAINTIFFS ORIGINAL COMPLAINT

I. PRELIMINARY STATEMENT

1. This is an action by employees of the Cameron County under the Fair Labor Standards Act, 29 U.S.C. sec.201 et seq (FLSA) and Sec. 16(b). The plaintiff officers over the years have performed many hours of overtime, i.e., have worked hours in excess of forty hours per week. As public employees, the officers were entitled to overtime pay or "compensatory" pay for all hours worked over forty hours per week. The plaintiffs have been unlawfully denied their overtime pay or compensatory pay for the hours worked over forty hours per week at a rate of one and one half times their hourly rate

of pay. Plaintiffs demand herein all wages and overtime owed plus an equal amount as liquidated damages. This action is brought as a collective action under Sec. 216(b).

II. JURISDICTION

2. This Court has jurisdiction of this cause under 29 U.S.C. sec.216(b) Fair Labor Standards Act and 28 U.S.C. sec. 1331 federal question.

III. PARTIES

3. Plaintiffs are employees and former employees EDWARD ALCALA, VICTOR ALVARADO, GUILLERMO ALVAREZ, JOE ANZALDUA III, ANDRES ARREOLA, ROEL ARREOLA, ANTONIO ARRIAGA, ROY ARMENDARIZ, HERIBERTO AVILA, EMILIO BALLI, RAUL BANDA, MIKE M. BARBARENA, ARMANDO BARBOSA, DOLORES BENAVIDES IBARRA, BERT M. BLANCHARD, JOSE GILBERTO BLANCO JR., RENE BORREGO, GILBERT BRIONES, MERCED BURNDAL JR., LUIS BURROLA, SALVADOR CABRERA, BERNARDO CAMACHO, ENRIQUE CAMARILLO, JUANA CAMPBELL, DANIEL CAMPOS, ROLANDO CANO JR., AMADO CANTU, JOSEPH J. CANUL, RENE CAPISTRAN, IGNACIO CASANOVA, GUADALUPE CASTILLO, GUADALUPE CASTILLO JR., JORGE CASTORENA, JONNY CAVAZOS, JOSE F. CAVAZOS JR., JOSE L. CEPEDA, HECTOR CERVANTES, MARTHA CERVANTES, JUAN A. CISNEROS, ALONZO CORONA, JUAN N. CORTEZ, GEORGE CRUZ, BENITO DE LA CRUZ, MARIAN CULVER, IRMA DE LA GARZA, ALFRED DE LOS SANTOS, ROBERT DE LOS SANTOS, DOMINGO DIAZ JR., ROBERT DOMANSKI, GREGORIO ESCAMILLA,

LUIS ESPARZA, ROBERTO ESPARZA JR., AGUSTIN FLORES, ALEJANDRO FLORES, CELSO FLORES, ERNESTO FLORES, ERNESTO G. FLORES, GILBERT FLORES, MARY ANN FLORES, HECTOR GALACIA, HUGO GALACIA, ABEL G. GARCIA, ALEX GARCIA, FAUSTA GARCIA, GEORGE L. GARCIA, GREGORIO GARCIA, JOSE GARCIA LONGORIA, JOSE R. GARCIA, MARIA DE JESUS D. GARCIA, OMAR GARCIA, PEDRO GARCIA JR., RAUL GARCIA, ROY S. GARCIA, VIDAL GARCIA, GERARDO GARZA, JOSE CANDELARIO GARZA, JOSE CARLOS GARZA, MANUEL M. GARZA, PEDRO GARZA, SABAS GARZA JR., ROGELIO GARZA, ELIDA GOMEZ, GILBERT GOMEZ, SANTOS GOMEZ JR., ARMANDO GONZALEZ, DAVID GONZALEZ, ELIZALBETH SOSA GONZALEZ, FRANK GONZALEZ, GEORGE GONZALEZ, HECTOR GONZALEZ, HOMER GONZALEZ, J.M. GONZALEZ, ROBERT GONZALEZ, SYLVIA GONZALEZ, THOMAS GONZALEZ JR., ROMAN A. GRACIA, JOE GUAJARDO, EFRAIN GUERRERO, ALFREDO GUTIERREZ, JOSE I. GUTIERREZ JR., MARTHA GUTIERREZ, MARTIN GUZMAN, JAVIER HERNANDEZ, RAUL HERNANDEZ, XAVIER LEE HERNANDEZ, MIROSLAVA HARARE, DANIEL HUERTA, ROBERT D. JOHNSON, JOHN F. KEENER, PERNAL KEENER, JORGE R. KOMALSKI, FERMIN LEAL, HECTOR LEAL, FRANK LERMA JR., DAVID LIMON, MIKE A. LINARES, ROBERT LOPEZ, VICTOR LOPEZ, RODOLFO ISMAEL LOZANO, FERNANDO LUCIO, ALFREDO LUNA, LUIS LUNA JR., ARMANDO MALDONADO, CRISTINA MALDONADO, ROLANDO MANCILLA, GERMAN MARTIN, LUIS G. MARTINEZ,

NAT MARTINEZ, THOMAS G. MARTINEZ, RAMIRO MEDRANO, ROLANDO MEDRANO, ROLANDO MEDRANO JR., JUAN MENDOZA JR., LORENZO MOLANO, JORGE MONCADA, SAMUEL MONTEMAYOR, JOSE A. MONTES, JAIME MUNIVEZ, JUAN MUNOZ, LELINA NIETO, MARTIN NIETO, FLOYD NELSON, JAIME NELSON, LELINA NIETO, MANUEL NUNEZ JR., ROGER OLSSON, JOE OLVERA, DAVID ORTEGA, JR., ISAIAS PADILLA, JAVIER PENA, ABEL PEREZ JR., CARLOS R. PEREZ, DAVID PEREZ JR., RICARDO PEREZ, JAVIER F. PINEDA, ANTONIO B. RAMIREZ, DANIEL RAMIREZ, JOSE RAMIREZ, RAMIRO RAYA, ROLANDO RIVAS, REYNALDO REY, JUAN REYNA JR., AGUSTIN RIVERA JR., JOSE A. ROCHA, ALONZO RODRIGUEZ, AMADEO RODRIGUEZ, FELIZA RODRIGUEZ, JUAN JOSE RODRIGUEZ, JUAN LUIS RODRIGUEZ, RAUL E. RODRIGUEZ, ROBERT RODRIGUEZ, JOSE ROBERT RUIZ, JOSEPH SAENZ, CRISPIN SALAZAR, GILBERT SALAZAR, OMAR SALAZAR, FRANK SANCHEZ, LUIS HUMBERTO SCHULTZ, ROBERTO SILVA, HARRY STEVENS JR., ARMANDO TENORIO, JOHN TOMALENUS, ABEL E. TORRES III, ANTONIO R. TORRES, RAUL TORRES JR., ALBERT TREVINO JR., EDMUNDO TREVINO, EDWARD TREVINO, HILDA TREVINO, JANIE TREVINO, RAUL L. TREVINO, LUIS L. VALDIS, CESAR R. VALDEZ, MARTIN N. VALLEJO, JIMMY S. VASQUEZ JR., MARIO X. VERA, MARIA G. VIDAL, JOE VILLAREAL JR., JOSE ARTURO VILLAREAL, JUAN E. VILLAREAL, JAMES WOODARD, WALTER L. WEAVER, RICHARD ALLEN WALKER, JOSE LUIS YANES, ELIAS YBARRA, JOEL ZAMORA,

EDWARD ZEPEDA, GILBERTO ZEPEDA, ROY ZEPEDA, MARIA ANGELITA PADILLA.

4. Defendant Alex Perez, Sheriff of Cameron County, Texas, is sued in his official capacity. The Sheriff and Defendant Cameron County, Texas are an employer within the meaning of the Fair Labor Standards Act.

IV. FACTS

5. Plaintiffs are employed by the defendants. Over the years the defendants have had a policy of promising compensatory time in lieu of paying overtime for hours worked in excess of forty hours per week, i.e., the employee would be entitled to take off one and one half hours for each hour worked in excess of forty hours per week or be paid for the overtime that employees have worked.

6. Defendants have not kept accurate records as a matter of practice reflecting hours that Plaintiffs have actually worked. Plaintiffs have been intimidated and harassed and in some instances jobs threatened for trying to submit overtime hours to the county. Defendants have not paid Plaintiffs for overtime hours worked. The Defendants have been aware of the above problems regarding overtime hours and have failed to comply with Federal laws regarding record keeping and compensation.

7. The overtime hours that Plaintiffs have been allowed to submit and accumulate have often been taken or used by the Plaintiffs due to coercion from the Defendants. Plaintiffs have been coerced and forced to use these hours when they have been sick or have wanted to go on vacation. The county specifically sets aside a number of days for

vacation and for sick leave which after a certain time period Plaintiffs lose if not used.

8. The Defendants have operated their compensatory time program in such a manner as to deny the plaintiffs their compensatory time or overtime pay for all hours worked. The defendants have not paid the plaintiffs overtime wages in lieu of allowing the plaintiff to take their compensatory time off.

9. Defendants have prohibited the Plaintiffs from taking compensatory time off and the Defendants have denied their responsibility to pay overtime wages for all hours accumulated or to allow compensatory time.

V. CAUSE OF ACTION

10. The Defendants have a pattern of depriving the Plaintiffs overtime wages and compensatory time by means of various systemic practices all in violation of the Fair Labor Standards Act.

11. The Defendants conduct and unlawful practices in regard to overtime and compensatory time affect all potential present and former employees in the same or similar manner thus making appropriate notice to the potential class of Plaintiffs notifying them of the pendency of this action and allowing them an opportunity to opt into the case. This is an appropriate collective action under Sec. 216(b).

12. Plaintiffs and all those similarly situated are entitled to their overtime pay in an amount which is one and one half times their current pay or in the case of an employee who is no longer employed, one and one half times their hourly wage at the time of termination. Plaintiffs are also entitled to an equal amount in liquidated

damages.

WHEREFORE, Plaintiffs pray that upon trial of this cause that judgment be entered awarding the plaintiffs:

1. Unpaid overtime wages for all hours worked in excess of forty hours at the rate of one half times their regularly hourly wage;
2. An equal amount as liquidated damages as allowed under the Fair Labor Standards Act;
3. An injunction against further violations;
4. Pre and post judgment interest as provided by law;
5. Reasonable attorney's fees, costs and expenses as provided in the Fair Labor Standards Act; and,
6. Such other and further relief as may be required by law.

Respectfully submitted,

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